

EXHIBIT

40

ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

John Aaron Murphy Jones 4641
Attorney at Law
1170 N. King Street
Honolulu, Hawaii 96817
Telephone: 808 926-9078

SEP 16 1992
at 10 o'clock and 35 min. AM.
WALTER A.Y.H. CHINN, CLERK
By

Attorney for Plaintiff
Nancy Miracle, aka
Nancy Maniscalco Green

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

NANCY MIRACLE, aka, NANCY MANISCALCO GREEN,)	CIVIL NO. 92 00605 ACK
)	(Non Motor Vehicle Tort)
Plaintiff,)	COMPLAINT SEEKING SHARE OF
vs.)	PRETERMITTED HEIR; EXHIBITS
ANNA STRASBERG, as Administratrix, c.t.a. of the Last Will and Testament of MARILYN MONROE.)	A AND B; DEMAND FOR JURY TRIAL; SUMMONS
Defendant.)	
)	

COMPLAINT SEEKING SHARE
OF PRETERMITTED HEIR

The Plaintiff, NANCY MIRACLE, aka NANCY MANISCALCO GREEN, through her undersigned counsel, avers and alleges as follows:

1. She is a natural person who at all times material herein was a resident and domiciled in the City and County of Honolulu, State of Hawaii.
2. The defendant is the Administratrix of the Last Will and Testament of Marilyn Monroe, aka Nancy Cusumano, and is domiciled in New York.

3. Jurisdiction is based on diversity of citizenship under 28 U.S.C. section 1332(c)(2).

4. The Will of Marilyn Monroe, aka Nancy Cusumano was probated in the Surrogate's Court held in and for the County of New York in 1962.

5. The plaintiff, Nancy Miracle, aka Nancy Maniscalco Green, is the daughter of Marilyn Monroe, aka Nancy Cusumano, (deceased) and was raised from birth, until her death, by Jennie Cusumano Maniscalco, the older blood sister of Marilyn Monroe, aka Nancy Cusumano. Plaintiff is interested in decedent's will and estate.

6. In 1962, an order of the Surrogate's Court for the County of New York was made and entered admitting to probate a certain instrument in writing purporting to be the last will and testament of Marilyn Monroe, aka Nancy Cusumano. That on said date this court made an order appointing Anna Strasberg, administratrix, of said will. That Anna Strasburg duly qualified as executrix and is now the acting administratrix of said will.

7. Since the date of the order aforesaid admitting said instrument to probate, plaintiff has discovered by evidence to plaintiff therefore unknown, and which evidence plaintiff, in the exercise of due diligence, could not have discovered prior to the date of said order and only recently discovered; that plaintiff Nancy Miracle, aka Nancy Maniscalco Green, is the sole natural born child of Marilyn Monroe, aka Nancy Cusumano.

8. Plaintiff Nancy Miracle, aka Nancy Maniscalco Green, was born on September 14, 1946 at Wykoff Heights Hospital in Ridgewood Brooklyn. The hospital birth certificate, attached hereto as exhibit A, lists Jennie Cusumano Maniscalco as Plaintiff's mother. Jennie Cusumano Maniscalco was the blood older sister of Marilyn Monroe, aka Nancy Cusumano, who was not married at the time of plaintiff's birth. Based on recently discovered evidence, Marilyn Monroe, aka Nancy Cusumano, gave her only child (plaintiff) to her older sister, who raised plaintiff as her own daughter until her death. Also, based on newly discovered evidence, the birth certificate of plaintiff has the right and left footprints of plaintiff on it and the fingerprints of Marilyn Monroe, aka Nancy Cusumano, on it appearing under Mother's left and right thumbprint.

(see next two pages attached hereto as exhibit A and footprints and fingerprints of plaintiff- exhibit B).

9. Decedent's will made no provision for plaintiff, who is entitled to the same share of decedent's estate as if decedent had died intestate.

10. That plaintiff, being the sole blood daughter of Marilyn Monroe, aka Nancy Cusumano, (deceased) is entitled to a 50% fractional share of said decedent's estate as a pretermitted heir.

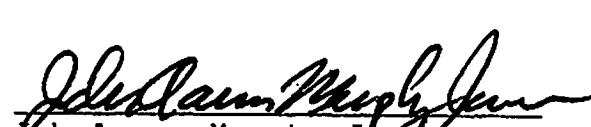
Wherefore, plaintiff prays that defendant, the

administratrix of the Last Will and Testament of the Estate of Marilyn Monroe, be ordered to:

- a) Distribute and pay to plaintiff, her 50% pretermitted heir share of said estate which is an amount which plaintiff's request leave to amend this complaint to show at trial but not less than five million dollars.
- b) Costs of bringing this suit, including a reasonable attorney's fee, deposition expenses and witness costs; and
- c) Such other relief as the court deems just.

Dated: Honolulu, Hawaii,

9/16/92


John Aaron Murphy Jones
Attorney for Plaintiff



Mother's left thumbprint



Baby's left footprint

Father's full name
Birthplace

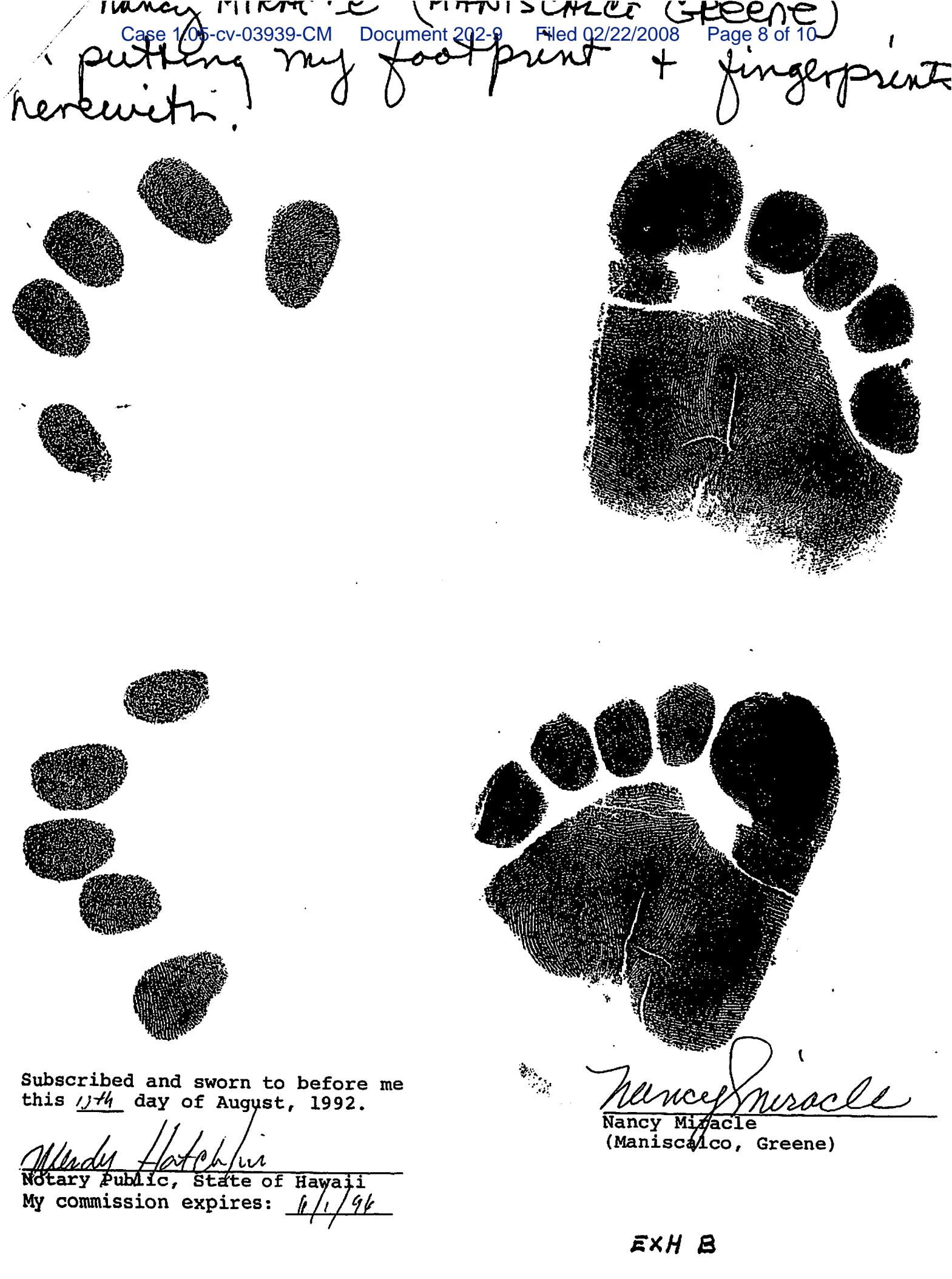
Mother's maiden name
Birthplace

Residence at time child was born

Sex of child

Weight

This Certificate of Birth shows



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Attorney for Plaintiff
Nancy Miracle, aka
Nancy Maniscalco Green

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

NANCY MIRACLE, aka, NANCY MANISCALCO GREEN,)	CIVIL NO.
)	(Non Motor Vehicle Tort)
Plaintiff,)	DEMAND FOR JURY TRIAL
vs.)	
ANNA STRASBERG, as Administratrix, c.t.a. of the Last Will and Testament of MARILYN MONROE.)	
Defendant.)	
)	

DEMAND FOR JURY TRIAL

TO: ANNA STRASBERG, as Administratrix,
c.t.a. of the Last Will and Testament
of MARILYN MONROE
600 Third Avenue
New York, New York 10016

Please Take Notice that plaintiff demands trial by jury in
this action.

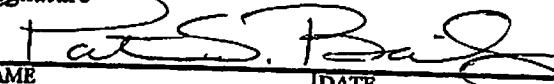
Dated: Honolulu, Hawaii,

9/15/92


John Aaron Murphy Jones
Attorney for Plaintiff

To all to whom these presents shall come. Greeting:

In virtue of the authority vested in me by the Archivist of the United States, I certify on his behalf, under the seal of the National Archives and Records Administration, that the attached reproduction(s) is a true and correct copy of documents in his custody.

Signature 	
NAME	DATE
PATRICIA S. BAILEY February 6, 2008	
TITLE Acting	
Acting Director, Records Center Operations	
NAME AND ADDRESS OF DEPOSITORY	
Office of Regional Records Services Pacific Region (San Francisco) 1000 Commodore Drive San Bruno, CA 94066-2350	

*U.S. GPO: 2007 OMB: 2007-02-334-122/79065

NA FORM 13040 (10-86)

defendant.
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COMPLAINT SEEKING SHARE
OF PRETERMITTED HEIR

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